

REMARKS

REJECTION UNDER 325 USC 103

Claims 1-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **He** et al., U.S. Pat. No. 6,088,451 (hereinafter referred to as **He**) in view of **Hess** et al., U.S. Pat. No. 5,471,670 (hereinafter referred to as **Hess**). Applicants respectfully traverse this rejection and submit that the claims on file are allowable over **He** and **Hess**, whether considered individually, or in combination with each other. In support of this position, Applicants submit the following arguments:

A. Legal Standards for Obviousness

While recognizing the legal arguments presented by the Examiner, Applicants respectfully submit the following court opinions that set the general standards in support of Applicant's position of non-obviousness, with emphasis added for added clarity:

- **"Obviousness cannot be established** by combining the teachings of the prior art to produce the claimed invention, **absent some teaching or suggestion** supporting the combination." *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1598 (citing *ACS Hosp. Sys. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)). **What a reference teaches** and whether it teaches toward or **away from the claimed invention** are questions of fact. See *Raytheon Co. v. Roper Corp.*, 724 F.2d 951, 960-61, 220 USPQ 592, 599-600 (Fed. Cir. 1983), cert. denied, 469 U.S. 835, 83 L. Ed. 2d 69, 105 S. Ct. 127 (1984). "

- “When a rejection depends on a combination of prior art references, there must be **some teaching, suggestion, or motivation** to combine the references. See *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987).”
- “With respect to core factual findings in a determination of patentability, however, the **Board cannot simply reach conclusions based on its own understanding or experience** -- or on its assessment of what would be basic knowledge or common sense. **Rather, the Board must point to some concrete evidence in the record** in support of these findings.” See *In re Zurko*, 258 F.3d 1379 (Fed. Cir. 2001).
- “We have noted that **evidence of a suggestion, teaching, or motivation to combine** may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see *Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc.*, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), *Para-Ordinance Mfg. v. SGS Imports Intern., Inc.*, 73 F.3d 1085, 1088, 37 USPQ2d 1237, 1240 (Fed. Cir. 1995), although “the suggestion more often comes from the teachings of the pertinent references,” *Rouffet*, 149 F.3d at 1355, 47 USPQ2d at 1456. The range of sources available, however, does not diminish the requirement for actual evidence. That is, **the showing must be clear and particular**. See, e.g., *C.R. Bard*, 157 F.3d at 1352, 48 USPQ2d at 1232. **Broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.”** E.g., *McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) (“Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact.”); *In re Sichert*, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977).” See *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999).

- "To prevent the use of hindsight based on the invention to defeat patentability of the invention, **this court requires the examiner to show a motivation to combine the references** that create the case of obviousness. In other words, **the examiner must show reasons** that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references **for combination in the manner claimed.**" See *In re Rouffet*, 149, F.3d 1350 (Fed. Cir. 1998).
- MPEP 2143.01-"The Prior Art Must Suggest The Desirability Of The Claimed Invention. There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) **(The combination of the references taught every element of the claimed invention, however without a motivation to combine, a rejection based on a prima facie case of obvious was held improper.)** The level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).
- The mere fact that references can be combined or modified does not render the resultant combination obvious **unless the prior art also suggests the desirability of the combination.** *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, **there must be a suggestion or motivation in the reference** to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

- If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

B. Summary of the Present Invention

Prior to discussing the merit of the obviousness rejection under 35 U.S.C. 103, it might be desirable to review a summary of the present invention and some of the features provided thereby. The gist of the present invention relates to the "IMPLICIT LOGOFF" process. The present system (or method) introduces the concept of "implicit logoff", which is a secure log-off procedure that can be used in addition to the conventional express log-off and cookie termination.

The implicit log-off procedure presents numerous advantages over the conventional termination or logoff procedures, in that it reduces the risk to a user resulting from choosing an insecure site while logged onto a secure site. Users are provided with pop up warnings on their monitors, alerting them to the unattended pending connection to the secure site. The implicit log-off procedure further mitigates the risk of losing control of private information as the result of a session that has not been appropriately terminated by the user. In addition, the implicit log-off procedure reduces the business costs associated with a non-productive, secure session, and avoids undesirable log-offs by providing to the user appropriate warnings.

The implicit log-off procedure provides an add-on notification module to the user's browser that is completely transparent to the user, sends a message to the ebusiness server notifying it that the client is no longer actively involved in a secure, online transaction. This notification may result from total inactivity on the part of the client, from the client's choice of another site or page that is not secure,

or from simply leaving the secure site.

In use, the user visits a website of a business using a web browser. At some point, the user enters a secure region through log-in. At this point, the browser begins to track the user's activity. Subsequently, one of the following events may occur:

- a) The user selects a new URL. If this URL is a secure region within the same business site, the warning system remains dormant pursuant to the e-business site administrator policy or discretion.
- b) The user selects a new URL. If this URL is outside the business space, such as for example the URL of another business, the system may be configured to bring up a warning pop-up window on the user's monitor, informing the user that he or she is leaving the security zone. The user is given the opportunity to log off from the secure connection.
- c) The user selects a non-secure region of the same business site. The system may optionally warn the user. Repeated warnings to the user can cause annoyance and, hence, the system allows the user to turn off these warnings.
- d) The user may enter a period of inactivity within the secure site. After a preset duration the warning system brings up a pop-up window to warn the user that he or she should continue the transaction, log off, or set the time out duration to a period of his or her own choice. Should the client fail to respond in a pre-determined time the system may log off the user.

C. Claims 1, 2, 3, 5-13, and 15-17

The office action states that **“He does not explicitly disclose wherein if the user exit[s] the secure site, the notification module sends a message to the secure transaction protection module for implicitly logging off the user from the secure site”** (which is interpreted as if the user exits its initial site notify the central controller []).” Emphasis added.

Applicants agree with the examiner that **He does not explicitly disclose the following element of claim 1:**

“wherein if the user exits the secure site, the notification module sends a message to the secure transaction protection module for implicitly logging off the user from the secure site.”

It should be clear that this element that is missing from **He** is a crucial step for the implicit logoff procedure, as described earlier (refer to the Summary of the Invention above), as **this is the step that renders the implicit logoff procedure viable** according to the teaching of the present invention. Thus, the fact that this important step is missing from the **He** is by itself a clear indication that **the office action has not established a prime facie obviousness rejection**. Therefore, Applicants respectfully request that this rejection be withdrawn and the claims allowed.

In addition, **Applicants reiterate that the “IMPLICIT LOGOFF” process represents an important aspect of the present that must be present in either He or Hess, or both.** Applicants submit that the office action does not address the **logging off** aspect of the present invention. As an example, when applying the teaching of **He**, the office action interprets the implicit logging off process as **notifying the central controller**. However, **there is a significant distinction between “implicitly logging off” and “notifying the central controller.”**

This same point is replicated in the arguments in favor of allowance of claim 1 in view of **Hess**. The office action states that when “the system and unit exits initial site notify the central controller”. However, the office action still did not refer to an implicit logging off process in **Hess**.

Applicants respectfully submit that “implicit log off” and “notification to the central controller” should not be interchangeably used. These terms need to be clearly distinguished as they connote distinct meanings and implications.

The term “implicit log-off” was coined in the present application for the purpose of describing the functionality of the invention, as follows: “implicit log-off [at step 330, which] means that the client will implicitly send the log-off message event to the server 15 without the user explicitly choosing the logout option.”
Emphasis added.

Since the term “implicit log-off” was clearly defined by Applicants, it would not be permissible for the Examiner to redefine this term, in order to justify a rejection ground. As an example, the fact that the user has left the initial site and the central controller is notified, does not imply that the user will be automatically and implicitly logged off, as described in the present application.

The absence of such an important element from both **He** and **Hess** does not support a prime facie case of obviousness. Applicants respectfully request that the rejected claim 1 and the claims dependent thereon be allowed.

Therefore, claims 1, 2, 3, 5-13, and 15-17 are not obvious in view of **He** whether considered individually or in combination with **Hess**, and the allowance of these claims is earnestly solicited.

D. Claims 4 and 14

The office action bases its rejection on the ground that cookies are known (which fact is acknowledged by Applicants), and that **Hess** discloses a multiple site communication system/method for determining when to hand off a communication. When the communication exits its initial site notify the central controller (see., abstract, col 5, lines 13-29). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the network security of **He** by including the limitation detailed above as taught by **Hess** because such modification would monitor and identify the communication resources that the communication unit monitors.

Applicants respectfully submit that claims 4 and 14 are allowable for depending on the independent claims 1 and 11, respectively, as presented above.

In addition, it is not clear from the hypothetical combination suggested by the office action, what the result of the monitoring would be. For the rejection ground to be justified, the combined teaching of the two references, should at the very least (no admission is made herein) indicate that the implicit log-off procedure be implemented. No such log-off procedure would be implemented by the hypothetical combination of the two references.

As a result, the combination of **He** and **Hess** does not warrant an obviousness rejection, and the allowance of these claims is respectfully requested.

TELEPHONE INTERVIEW

Applicants respectfully request a telephone interview to discuss claim 1 in view of the **He** and **Hess** references.

CONCLUSION

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned at the below-listed telephone number.

Respectfully submitted,

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Samuel A. Kassatly Law Office
6819 Trinidad Drive
San Jose, CA 95120
Tel: (408) 323-5111
Fax: (408) 323-5112



Samuel A. Kassatly
Attorney for Applicant
Reg. No. 32,247